

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 11,034
)	
Appeal of)	

INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare terminating her ANFC benefits. The issue is whether the Department may consider the income of the father of one of her children in computing the petitioner's eligibility for ANFC.

FINDINGS OF FACT

This is another so-called DEFRA case, in which the Department, pursuant to federal statute, mandates the inclusion in an ANFC "assistance group" of the siblings and parents of all eligible children. In the petitioner's case, she resides with three children from a previous marriage and one child she has in common with another adult residing in her home. From October through mid-December, 1991, the father of the child in common was absent from the home. During this time the petitioner received ANFC for herself and all four children based on the "absence" of both fathers. In mid-December, 1991, the father of the child in common returned to the petitioner's home. Since he was unemployed at the time, and had no income, the petitioner willingly had him added to the family's ANFC grant. In mid-

January, however, the father began receiving unemployment benefits. The Department refused the petitioner's request at that time to remove him from the grant. Moreover, the Department counted his unemployment benefits as income to the entire household, resulting in a substantial reduction in the family's ANFC benefits. Prior to October, 1991, when the father lived in the household but was working, the Department had excluded him and his child from the petitioner's ANFC grant and did not deem his income from wages to be available to the petitioner and her other three children.

The petitioner, who appeared pro se, took no issue with the facts and figures relied upon by the Department in its determination. Although she strongly disagrees with the effect and rationale of the regulations in question, she could not dispute that the Department was applying those regulations correctly to her situation.

ORDER

The Department's decision is affirmed.

REASONS

Over the past several years the Board has considered dozens of appeals concerning the provisions in the regulations, adopted pursuant to the 1984 DEFRA amendments to the federal ANFC statutes, mandating the inclusion in an ANFC household of all siblings, and parents of those siblings, who reside with ANFC-eligible children, and

"deeming" the income of those siblings as "available" to the entire ANFC household. See Fair Hearing Nos. 6648 et al. and W.A.M. 9 2242. This case again illustrates the incongruity in the manner in which Congress implemented these so-called deeming provisions.¹

Nonetheless, it is clear in this matter that the Department has correctly followed what the United States Supreme Court has upheld as a valid procedure for determining the ANFC eligibility of individuals in the petitioner's circumstances.² Therefore, the Board has no choice but to affirm the Department's decision. 3 V.S.A. 9 3091(d) and Fair Hearing Rule No. 19.

FOOTNOTES

¹By statute, mandatory household inclusion and income-deeming of half-siblings occurs only when the parent of that sibling is absent, unemployed, or incapacitated--but not when the parent is living in the household and is working. See 42 V.S.C. 9 602(a)(38).

²See Bowen v. Guillard, 55 U.S.L.W. 5079 (1987).

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